

Handwritten initials: DJF, CM

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

TRUSTEES OF THE PLUMBERS LOCAL UNION NO. 1 WELFARE FUND, ADDITIONAL SECURITY BENEFIT FUND, VACATION & HOLIDAY FUND, TRADE EDUCATION FUND AND 401(K) SAVINGS PLAN, TRUSTEES OF THE PLUMBERS AND PIPEFITTERS NATIONAL PENSION FUND, TRUSTEES OF THE INTERNATIONAL TRAINING FUND and GEORGE W. REILLY, as Business Manager of LOCAL UNION NO. 1 OF THE UNITED ASSOCIATION OF JOURNEYMEN AND APPRENTICES OF THE PLUMBING AND PIPEFITTING INDUSTRY OF THE UNITED STATES AND CANADA,

Plaintiffs,

-against-

MANHATTAN PLUMBING CORP. and HENRY PLEMPER,

Defendants.

08-cv-3036 (FB)(RML)

**ORDER TO SHOW
CAUSE AND
TEMPORARY
RESTRAINING ORDER**

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT E.D.N.Y.

★ DEC 04 2008 ★

BROOKLYN OFFICE

Upon reading the annexed Affidavits of Walter Saraceni and Michael DeSantis and the exhibits attached thereto, the Declaration of Charles Virginia, and Plaintiffs' Memorandum of Law in Support of Plaintiffs' Order to Show Cause, and Plaintiffs having shown that Defendants Manhattan Plumbing Corp. and Henry Plemper appear to be in the process of liquidating their assets and/or transferring their books of business, in an attempt to frustrate the Plaintiffs' ability to collect on an any eventual judgment in this matter, brought pursuant to the Employee Retirement Income and Security Act of 1974, as amended, 29 U.S.C. § 1001 et seq. ("ERISA") and Plaintiffs having shown that unless

the Plaintiffs' request for a temporary restraining order is granted, immediate and irreparable injury, loss or damage will result to the Plaintiffs and their participants, it is hereby:

ORDERED that Defendants show cause before this Court on the 16th day of December 2008 at 4 p.m., or as soon thereafter as counsel can be heard, at the United States Courthouse, Room 10C, 225 Cadman Plaza East, Brooklyn, New York 11201, why a preliminary injunction should not be issued, pending the decision of the Court in this action: (1) requiring Defendants to place \$95,420.04 in escrow with an escrow agent acceptable to the Plaintiffs for the duration of this litigation, or in the alternative to post a bond or other security acceptable to Plaintiffs equal to the amount of delinquent contributions for the benefit of Plaintiffs; (2) immediately enjoining Defendants from disposing of, transferring or selling any assets outside of the ordinary course of business without the express written permission of the Plaintiffs and this Court until such escrow account is established or an alternative security arrangement acceptable to Plaintiffs is arranged; and (3) requiring Defendants to submit to an immediate examination of all of their books and records to determine the existence and/or location of the assets of the Plaintiff Funds commingled and/or held in the corporate and/or personal assets of Defendant Manhattan and/or Defendant Henry Plemper. B

~~IT IS FURTHER ORDERED that, pending this hearing on the preliminary injunction, Defendants are immediately enjoined from disposing of, transferring or selling any and all assets outside of the ordinary course of business, up to a fair market of \$95,420.04 without the express written permission of this Court until an examination of~~ B

~~the assets of Defendants Manhattan Plumbing Corp and Henry Plemper can be conducted to determine the location of all plan assets of the Plaintiff Funds.~~

IT IS FURTHER ORDERED, that service of this Order to Show Cause and Temporary Restraining Order and the papers upon which it is based be made on or before the 5th day of December, 2008 by overnight mail on Defendant Henry Plemper, and that said service be deemed sufficient; and it is further

ORDERED that service of opposition papers, if any, be made on or before the 12th day of December, 2008 by delivering copies thereof by ^{any means authorized by FRCP 5(b)(2)} ~~hand before 12:00 noon~~ to the office of Barnes, Iaccarino, Virginia, Ambinder & Shepherd, PLLC, Trinity Centre, 111 Broadway, 14th Floor, New York, New York 10006, attorneys for Plaintiffs herein.

Dated: December 2, 2008

~~Time:~~ Brooklyn, NY

INTER

s/FB

UNITED STATES DISTRICT JUDGE